

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(Northern Division)

UNITED STATES OF AMERICA,)
)
and the STATE OF MISSISSIPPI,)
)
Plaintiffs,)

v.)

THE CITY OF JACKSON, MISSISSIPPI,)
)
Defendant.)

Case No. 3:12-cv-790-HTW-LGI
(Clean Water Act Case)

UNITED STATES OF AMERICA,)
)
Plaintiff,)

v.)

THE CITY OF JACKSON, MISSISSIPPI,)
)
Defendant.)

Case No. 3:22-cv-00686-HTW-LGI
(Safe Drinking Water Act Case)

SECOND DECLARATION OF RACHEL FRISK

I, Rachel Frisk, do hereby state and declare as follows:

1. I am Director for the Program Administration and Nutrition Division (“PAND”) of the Supplemental Nutrition Assistance Program (“SNAP”) at the United States Department of Agriculture (“USDA” or “the Department”) Food and Nutrition Service (“FNS”), Alexandria, Virginia. I have held my current position since August 2022.

2. As the Director of PAND, I am responsible for the State Administration Branch, Quality Control Branch, and Nutrition Education Branch of SNAP which concern, in part, SNAP recipient (“household”) and State administration matters. Additionally, I oversee the rulemaking and statutory and regulatory enforcement processes for these branches.

3. The statements made in this declaration are based on knowledge that I have acquired in the performance of my official duties, including information provided to me by USDA FNS’ SNAP staff and attorneys from the USDA Office of the General Counsel (“OGC”), and my knowledge of the issues being litigated in the above-captioned matter.

4. I am submitting this declaration at the request of the United States Department of Justice in response to this Court’s Order, entered on April 14, 2024 [Dkt. No. 107]. I previously submitted a Declaration in this matter [Dkt. 93]. USDA does not directly collect, maintain, or control information from SNAP households and is not in possession of any current data on SNAP households. The only SNAP data from households in Mississippi that USDA is in possession of is severely limited and months out-of-date.

5. USDA is the only federal agency implementing SNAP. In Mississippi, the state agency implementing SNAP is the Mississippi Department of Human Services (“MDHS”).

6. USDA obtains limited SNAP household data from the MDHS through payment accuracy quality control reviews (“QC reviews”). *See* 7 U.S.C. § 2025(c); 7 C.F.R. § 275 Subpart C. QC reviews evaluate States’ administration of SNAP by examining a sample of their total SNAP caseloads to determine each State’s rate of payment errors. *Id.*

7. States conduct QC reviews by sampling a minimum number of their total caseload each month. The procedures States follow for their sampling are set pursuant to requirements at 7 C.F.R. § 275.11 and their FNS-approved sampling plan. *See* 7 C.F.R. § 272.2(e)(4).

8. States generally have 115 days after the conclusion of each month to report their case findings for their monthly samples to USDA but may be granted additional time to submit that information for good cause. *See* 7 C.F.R. § 275.21(b)(2).

9. For Mississippi, the most recent QC review data USDA has is from December 2023.

10. Upon review of Fiscal Year 2024's first quarter QC data for Mississippi (October through December 2023), USDA currently has names and addresses for only 17 households that were located in the zip codes listed in the above-referenced Court Order. In addition, because States randomly sample households for QC reviews each month, it is not possible to predict the number of households within the relevant zip codes that Mississippi will submit to USDA in each month for QC review purposes.

11. As such, USDA is only in possession of the names and addresses for 17 SNAP households that were at one point located in the relevant zip codes, but that information ranges from four to six months old. In the time since that information was submitted to USDA, the SNAP households could have moved, become ineligible for SNAP by exceeding income requirements, voluntarily stopped participating in SNAP, or otherwise been removed from SNAP.

12. Additionally, USDA does not have the authority to require States or the state agency implementing SNAP (*i.e.*, MDHS) to share household information with USDA or any person outside of what is specifically delineated by the Food and Nutrition Act (Act) and corresponding regulations, such as for payment accuracy quality control reviews. *E.g.* 7 U.S.C. § 2025(c); 7 C.F.R. § 275 Subpart C. USDA is unaware of any statutory or regulatory process for it to require MDHS to give it data beyond the delineated uses in the Act and corresponding regulations, even if required by Court order.

I declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the foregoing is true and correct.

RACHEL FRISK, Director
Program Administration & Nutrition Division
Supplemental Nutrition Assistance Program
U.S. Department of Agriculture
Alexandria, Virginia